

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers and Other Providers of Mobile Data Services	)	WT Docket No. 05-265
	)	
Petition for Expedited Declaratory Ruling of T-Mobile USA, Inc.	)	DA 14-798
	)	

**To: Chief, Wireless Telecommunications Bureau**

**COMMENTS OF THE BLOOSTON RURAL CARRIERS**

The Blooston Rural Carriers shown in Attachment A hereby express their support T-Mobile USA’s petition for declaratory ruling and request for prospective guidance on the “commercially reasonable” standard in the context of data roaming. As discussed below, in addition to addressing T-Mobile’s request for clarification of what is reasonable in terms of data roaming criteria and rates, the Blooston Rural Carriers urge the Commission to adopt a “shot clock” for nationwide carriers to enter into a data roaming agreement with a requesting carrier following receipt of a written request. While a specific time limit may not be appropriate for all negotiations, the Blooston Rural Carriers believe that the onus for demonstrating that more time is required for a particular negotiation should be placed on the serving carrier.

**I. A “Shot Clock” for Data Roaming Negotiations Would Help to Limit Undue Delay by Nationwide Carriers**

Since the FCC adopted its *Data Roaming Order* and amended its CMRS roaming rule in 2011,<sup>1</sup> small and rural carriers have continued to experience difficulties in seeking to negotiate data roaming agreements with nationwide carriers to facilitate their deployment of LTE service in the 700 MHz and AWS-1 bands. These difficulties have occurred despite the commercial reasonableness mandates of the *Data Roaming Order*. The Commission anticipated this problem

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<sup>1</sup> 47 C.F.R. § 20.12(e); Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers and Other Providers of Mobile Data Services, *Second Report and Order*, 26 FCC Rcd. 5411 (2011) (“*Data Roaming Order*”).

three years ago when it concluded: “we find it likely that these providers will not be willing to offer roaming arrangements that cover these networks any time in the near future, except in very limited circumstances.”<sup>2</sup> The Commission went on to agree with commenters that “given the coverage of these nationwide providers, there is a serious risk they might halt the negotiations of roaming on their advanced mobile data networks altogether in the future in the absence of Commission oversight, harming competition and consumers.”<sup>3</sup>

This delay has hampered small and rural carriers’ ability to launch competitive mobile data services. In addition to the clarifications sought by T-Mobile with respect to the reasonableness of data roaming rates, the Blooston Rural Carriers respectfully urge the Commission to clarify that nationwide carriers have an obligation to initiate data roaming negotiations with requesting carriers within a reasonable amount of time not to exceed 60-90 days.

With three years gone by and little or no changes in large carrier conduct, the Commission should take this opportunity to reverse its prior decision declining to “adopt a time limit for roaming negotiations to limit the opportunity for host carriers to delay in negotiating roaming agreements.” Four parties in the proceeding below filed comments or reply comments seeking a time limit for negotiations,<sup>4</sup> and Blanca Telephone Company filed a Petition for Reconsideration of the *Data Roaming Order* seeking this same relief.<sup>5</sup> As noted by Blanca Telephone, “a shot clock for data roaming negotiations would be extremely effective in limiting the opportunity for national carriers to stonewall or delay negotiations.”<sup>6</sup> Under Blanca’s proposal, the shot clock requirement would enable either party to a negotiation, after a reasonable time (*e.g.*, 60 days), to invoke dispute resolution procedures detailed in the *Data Roaming Order*.<sup>7</sup> The Blooston Rural Carriers believe that such a mechanism would change the

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<sup>2</sup> *Data Roaming Order* at ¶ 27.

<sup>3</sup> *Id.*

<sup>4</sup> *See id.* at ¶ 84, Note 240 (citing to comments or reply comments filed by Cox Communications, Rural Cellular Association, Sothern Communications Services, Inc. d/b/a SouthernLINC Wireless and United States Cellular Corporation).

<sup>5</sup> *See* Blanca Telephone Company, *Petition for Reconsideration*, WT Docket 05-265, (filed June 6, 2011) (“*Blanca Data Roaming Petition*”).

<sup>6</sup> *Blanca Data Roaming Petition* at p. 8.

<sup>7</sup> *See Data Roaming Order* at ¶¶ 74-5. 77. 79-80.

incentive to delay into an incentive to cooperate, and restore a semblance of balance to data roaming negotiations among parties that otherwise have disparate market power. To the extent that the serving carrier objects to the time limit in any given case, it should have the burden of demonstrating to the Commission that additional time is reasonably needed, rather than requiring small companies to demonstrate that the serving carrier's pattern of delay is unreasonable.

## **II. Lack of Guidance on Reasonable Data Roaming Terms and Conditions and Delay by Nationwide Carriers Will Limit Small Carriers' Ability to Fulfill Mobility Fund Public Interest Criteria**

One of the Commission's primary objectives in adopting its *USF/ICC Transformation Order* in 2012 is to ensure that consumers in rural and high-cost areas have access to advanced telecommunications and information services that are reasonably comparable to services provided in urban areas. Among the public interest obligations of Mobility Fund recipients is the requirement that supported services be provided at a price that is reasonably comparable to rates charged for similar services in urban areas.

The cost of making roaming service available to subscribers is a significant component of the overall cost of service, especially for rural and regional wireless carriers. If these companies are precluded from access to data roaming services at a reasonable cost, and within a reasonable amount of time after a request is made, they will have great difficulty fulfilling their public interest obligations under the Commission's Rules and Section 254(b)(3) of the Act.

As a result, the Blooston Rural Carriers respectfully submit that reducing the cost and expanding the availability of data roaming services will help reduce pressure on the CAF and at the same time facilitate expansion and sustainability of advanced wireless services in areas that are currently unserved or underserved by nationwide service providers.

The FCC recognized the significance of permitting anti-competitive behavior in the roaming market when it adopted its rules for Mobility Fund Phase I. *USF/ICC Transformation Order* at ¶¶ 384-5. In this regard, rural carriers that receive Mobility Fund support must offer roaming on commercially reasonable terms and conditions, or face the risk that the Commission "claw back" the support they receive as a powerful sanction in addition to penalties that could be imposed under the *Data Roaming Order*. While the Blooston Rural Carriers understand and accept these public interest obligations, it is ironic that they should be subject to these powerful

and additional sanctions when they are the ones that lack market power with respect to nationwide carriers.

### CONCLUSION

The Blooston Rural Carriers join T-Mobile in requesting clarification of the “commercially reasonable” standard adopted by the Commission in its *Data Roaming Order*. Small and rural carriers, more than others, require access to data roaming in order to compete, and they will most certainly need to have access to data roaming services on reasonable rates, terms and conditions if they are to have any hope of fulfilling their public interest obligation of offering mobile wireless service on rates and terms that are reasonably comparable to similar services in urban areas. To restore a semblance of balance to data roaming negotiations, the Blooston Rural Carriers further urge the Commission to adopt a “shot clock” for nationwide carriers to enter into a data roaming agreement with a requesting carrier following receipt of a written request.

Respectfully submitted,

**THE BLOOSTON RURAL CARRIERS**



By: \_\_\_\_\_

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Their Counsel

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**Attachment A**

Butler Bremer Communications ..... Plainfield, IA  
Dickey Rural Networks..... Ellendale, ND  
East Buchanan Telephone Cooperative ..... Winthrop, IA  
FMTC Wireless, Inc..... Nora Springs, IA  
Fuego Wireless, LLC ..... Artesia, NM  
Louisiana Cellular, Inc..... Baton Rouge, LA  
South Slope Cooperative Communications ..... North Liberty, IA